Summary of Peer Exchange on Improving Transportation Decision-making through Planning, NEPA, and Project Development Linkage

Baltimore, Maryland
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Background

On May 22 and 23, 2001, the U. S. Department of Transportation (DOT) hosted a peer exchange in Baltimore, Maryland, for state transportation departments to share information about how they are linking the planning and project development processes in order to improve transportation decision-making. This meeting was held at the request of the Washington State Department of Transportation (WSDOT) and organized collaboratively among WSDOT, the Maryland State Highway Administration, and the U.S. DOT. Seventeen people attended, including planning and environment representatives from seven state DOTs (California, Florida, Indiana, Maryland, North Carolina, Oregon, and Washington); representatives from the U.S. DOT Federal Highway Administration (FHWA) Office of NEPA Facilitation, FHWA Office of Metropolitan Planning, FHWA Office of Statewide Planning, FWHA Eastern Resource Center, Federal Transit Administration (FTA) Office of Planning, and the U.S. DOT Volpe Center; a representative from the Center for Transportation and the Environment; and one facilitator. The purpose of the meeting was three-fold:

- Share information on state practices in linking planning, NEPA, and project development. Learn what states are doing, what is working, and what obstacles states are facing as they implement new processes.
- Identify commonalties and legitimate differences in state experiences.
- Reach conclusions and recommendations on how states can overcome obstacles.

This paper presents a summary of findings from the meeting, brief descriptions of the strategies implemented by the seven states, opportunities for better linking the planning and NEPA processes, and proposed next steps for U.S. DOT and the seven participating states.

Factors for Success

The seven state DOTs that attended this peer exchange are pioneers in linking the planning and NEPA processes in order to make planning and project development seamless, more connected, and more systematic. At this meeting participants shared detailed information about their work with other states for the first time. Participants found that there are real differences between states and regions within states, and that states are faced with unique challenges, such as differences in habitat, species, and the amount of control exerted by local and regional governments. However, the participants also found that they face many common obstacles. To

overcome these obstacles, participants shared valuable lessons learned that can be applied to other areas of their work as they attempt to streamline the transportation decision-making process.

States can use the participant-identified lessons learned listed below to develop new approaches to transportation decision-making. Other states can consider focusing on these issues when they work to improve the linkages between the planning and NEPA processes. In implementing these lessons, however, states must consider a variety of both institutional and technical factors.

- Transportation agencies need to understand why they have to change their planning and project development processes and what that change will look like. Resource agencies also need to be convinced that they need to change the way they coordinate with transportation agencies.
- Transportation agencies need to become environmental stewards. Linking the planning and project development processes is intended to incorporate transportation and environment considerations so that agencies can make better decisions.
- Agency management needs to demonstrate commitment to improving the transportation decision-making process by endorsing the new process and supporting it with an adequate allocation of resources.
- Relationships between agencies are the cornerstones to improving the transportation decision-making process. Agencies must build strong relationships to instill trust, improve cooperation, and eliminate turf wars. Relationships need to be made at the management level as well as the staff level due to staff turnover.
- Education within and between agencies is necessary. Agencies need to understand their own and others' priorities, roles, and responsibilities in the transportation decision-making process.
- Agencies need to be involved early in the planning and project development processes. In addition, their agreements must be in writing so that they are adhered to throughout the process.
- Agencies need to develop a data-driven process in order to create standardized systems. Information technology, such as Geographic Information Systems, can aid in improving decisions by identifying critical resources.
- Time frames need to be set and concurrence or coordination points established in the decision-making process.
- Periodic meetings need to be held in order to facilitate relationship building and keep the process moving forward.

State Strategies

Each of the seven participating states shared more detail about the particular strategy they are implementing to improve decision-making. The discussions included information about the motivating forces for developing each strategy. In addition, each state identified the challenges and successes they face. For many states, it is too early to ascertain the success of implementing each new strategy. Each state's strategy is described below.

California - Partnership Agreement

In February 2001, the California Resources Agency, California Environmental Protection Agency, and California Business, Transportation, and Housing Agency signed a partnership agreement to identify program areas in which additional cooperation between the agencies will more successfully integrate statewide goals of enhanced mobility with those of environmental protection. The purpose of the agreement is to have the participating agencies engage in concerted, cooperative, and collaborative program relationships. The agreement outlines an inclusive process intended to anticipate problems, promote open decisions, provide sensitivity to a variety of influences, and accelerate the overall transportation planning and development processes. The desired outcome is a well-integrated and carefully crafted project planning and environmental process that recognizes the authorities and involvement of regulatory agencies, the needs of the community, and the burdens and benefits to the environment. The motivating forces behind this agreement are largely political. First, the public demands and expects government agencies to work together in their best interest. Second, there is a need to deliver promised projects, including Governor Davis' Traffic Congestion Relief Program.

Based on their coordinated efforts, the California agencies have identified several lessons learned that can be used to improve the decision-making process, including:

- Earlier and more meaningful resource agency and community involvement in local and regional planning decisions.
- Staff resources to other agencies.
- Meaningful consideration of environmental and community issues in developing Regional Transportation Plans, Metropolitan Transportation Plans, and Interregional Transportation Strategic Plan so that fatally flawed projects are not forwarded.
- Consideration of the duplication of authority and oversight in some environmental review processes, e.g. California Department of Fish and Game's enforcement of the California Endangered Species Act covers approximately the same species and purposes as the U.S. Fish and Wildlife Service's and National Marine Fisheries Service's enforcement of Endangered Species Act.
- Recognition of other agency and project processes.
- Coordination between Federal and state-level environmental laws.
- Identification of pre-mitigation and dual-purpose project opportunities.

Florida - Environmental Transportation Decision-Making Process

In February 2000, an Executive Summit was held in Atlanta for Florida and Federal agencies to garner support and commitment to create a new process for Environmental Transportation Decision-Making (ETDM). Florida's ETDM process will bring agency interaction into the early stages of transportation planning. Avoidance and minimization strategies are identified earlier, and the cost impacts for these strategies can be built into the long-range transportation plan (LRTP). Interaction occurs through a multi-agency Environmental Technical Advisory Team (ETAT) established for each of the seven Florida DOT (FDOT) districts. The ETAT will consist of 12 to 20 representatives from agencies with statutory responsibility for transportation, land

use, and ecosystem planning, permitting, or consultation on projects, and will seek a proper balance between these competing perspectives. The ETAT will screen projects prior to the LRTP and as projects enter FDOT's Work Program. During Project Development, the ETAT role shifts from advisory to permit coordination. Many of the ETDM process details still need to be developed, including how FDOT and MPOs will interact with Water Management Districts.

The motivating forces behind the development of the ETDM Process were Section 1309 of Transportation Equity Act for the 21st Century (TEA-21) and political endorsement and support from senior-level management at FDOT and FHWA's Southern Resource Center and Florida division office. All agencies recognized that the process needed to be improved in order to protect and enhance Florida's resources. ETDM has achieved several successes thus far, including:

- Agreement from all agencies at the Executive Summit to commit time and money to developing the ETDM Process.
- Regularly scheduled meetings over a 13-month period that are well documented and shared with all the participants.
- Access to a highly developed, centralized database of digital information about the state's resources, which is maintained at GeoPlan Center at the University of Florida.

Albeit successful, Florida has faced a number of challenges throughout the development of the ETDM Process, including:

- Getting the right people to the table - people who are knowledgeable, experienced, confident in their ability to speak on behalf of their agency, and willing to consider new ways of doing business.
- Finding the necessary time and travel budgets for participating agencies. The ETDM Process would have not have been possible without the commitment from agency heads at the Executive Summit.
- Effectively achieving the ETAT rational tradeoffs required between transportation, land use, and ecosystem planning. The tradeoff process is still untested.
- Calculating cost/benefit ratios. Savings and cost avoidance measures can be discussed in concept but are difficult to quantify. This issue could grow in importance as the cost of implementation becomes larger.
- Actually implementing the ETDM process within FDOT, other agencies, and the MPOs. Years of momentum and the comfort associated with the status quo will have to be overcome.

Indiana - Streamlined Environmental Impact Statement Procedures

The Indiana DOT (INDOT), in coordination with FHWA and FTA, recently developed draft Streamlined Environmental Impact Statement (EIS) Procedures. The procedures will allow the documentation developed by FHWA and FTA, in compliance with NEPA, to serve as a substantial part of the documentation required by other permitting and funding agencies in accordance with applicable laws and regulations. More than 10 agencies are involved in the

process. These procedures establish a coordinated environmental review process with time limitations, concurrent reviews, and a dispute resolution process. The resulting decision-making process identifies and addresses regulatory agency issues at three key milestones: purpose and need; conceptual alternatives and alternatives retained for detailed study; and selected action and conceptual mitigation. Rather than separate corridor/feasibility studies being prepared before the NEPA process, major corridor/scoping studies are initiated as Environmental Assessments (EA). The EA/corridor process engages the public and regulatory agencies in developing and commenting on the purpose and need for the overall corridor, mode choice, and preliminary and conceptual alternatives of projects of independent utility.

INDOT has identified several challenges to improving the decision-making process, including:

- The need to educate and clearly explain the new process to the regulatory agencies as well as the public. This has been accomplished through a series of meetings with the public, elected officials, and mid-level and executive level regulatory staff.
- The need to overcome internal resistance to change. While most involved parties feel that the existing process is inefficient, wasteful, costly, and not inclusive of all parties in the decision-making process, there does exist some internal resistance to accept the new process.
- The need to protect against any legal challenge to the new process. Both INDOT and the FHWA field office in Indiana feel that this is a legally defensible process, but anytime a new process begins it can attract litigation.

Maryland - Streamlined Project Planning Phase

Maryland formed an interagency team in 1999 to develop strategies for implementing the environmental streamlining provisions of TEA-21 in its existing project planning process. The streamlined process was finalized in 2000 and focuses on the project planning phase of project development. Under the new process, the Maryland State Highway Administration (SHA) will continue to obtain environmental and regulatory resource agency concurrence and comments at three key project planning milestones: purpose and need, alternatives retained for detailed study, and SHA's selected alternative and conceptual mitigation. Two major field and office meetings are held with the resource agencies during the development of the purpose and need statement and the preliminary conceptual alternatives. Once a project reaches the alternatives retained for detailed study step, the agencies will determine whether formal concurrence points are still necessary.

SHA's streamlined process includes numerous other aspects. First, it includes MPO coordination and designation of a MPO as a "commenting" agency at formal concurrence points. Second, the process incorporates smart growth requirements. Third, Section 106 requirements are incorporated per the recent Advisory Council on Historic Preservation regulations. Fourth, references to aquatic resources include all resources (natural, socio-economic, and cultural). Fifth, resource avoidance, minimization, and mitigation discussions were moved earlier in the process and are now discussed for all alternatives studied in detail, not just the preferred alternative. Sixth, a preliminary Maryland Department of the Environment and Army Corps of Engineers Section 404 permit will be issued (conditioned on further avoidance and minimization

and the subsequent submission of a mitigation plan) shortly after location approval is received from FHWA. Lastly, a four-step conflict resolution process was included as an appendix to the streamlining procedures.

The focus of Maryland's effort was to explicitly incorporate various agency coordination and regulatory requirements into a single, unified process, thereby improving the overall timeliness of project decisions. SHA wanted to reduce permit delays and make better and faster decisions. The new environmental streamlining process has achieved many successes. SHA has now:

- Been able to reach interagency consensus at purpose and need, Alternatives Retained for Detailed Study, and SHA's Selected Alternative and Conceptual Mitigation by employing the formal concurrence process.
- Begun to view conflict resolution as a positive tool used for resolving disagreements, and has used the process on several projects, particularly during alternatives development.
- Developed better working relationships with resource agencies and garnered more knowledge about various agency mandates and roles in the process.

Through this process, however, SHA has also faced some obstacles, including:

- Staffing shortages, both internally and within resource agencies. SHA is learning about and using the flexibility that exists for funding positions in other agencies. SHA executed interagency funding agreements with the Army Corps of Engineers and the U.S. Environmental Protection Agency, and will soon execute one with the U.S. Fish and Wildlife Service.
- Balancing the need to shorten the project planning process with the need to incorporate more resource agency and public involvement throughout the process.

North Carolina - Memorandum of Agreement

In 1997, North Carolina DOT's (NCDOT) leadership changed, and the new management began supporting the concept of environmental stewardship. A major part of the environmental stewardship effort has been to identify ways to partner early with resource agencies, blurring the line between systems planning and project planning. North Carolina will implement four Federal pilot projects to test environmental streamlining implementation strategies. The implementation of a 404/401 merger process is the cornerstone for much of NCDOT's environmental streamlining effort. A signed memorandum of agreement between FHWA, the Army Corps of Engineers, and NCDOT currently outlines the process. The agreement is under revision to make the NC Department of Environment and Natural Resources (DENR) a formal partner. This agreement breaks the regulatory process into five key decision points. Any project taken through the merger process does not progress unless the merger signing agencies are all in concurrence. Once a concurrence point is passed, the process cannot loop back to that decision except under extraordinary circumstances (e.g., new regulations). This process has been extremely successful and is a basic component of most of the other strategies implemented or under consideration. Recently, DENR, NCDOT, and the Army Corps of Engineers jointly sponsored a formal process improvement workshop focused on the permitting process. Data gathered from 45 process

participant interviews may lead to the development of one- and three-year plans for joint initiatives.

NCDOT and its partners have faced many obstacles and learned many lessons from their coordination efforts. Below is a list of obstacles and descriptions of how the obstacles are being overcome.

- Lack of a common mission and set of goals among the agencies. NC agency senior management is working together to improve the process. NC agencies are defining goals at a senior management staff retreat with a follow-up staff retreat to define working relationship. In addition, agencies are signing a Secretarial Memorandum of Understanding (MOU) outlining mutual responsibilities and commitments to process improvement. DENR and NCDOT are also developing an MOU for the provision of wetland mitigation through the Wetlands Restoration Program.
- Lack of understanding of agency roles and responsibilities within the process. To overcome this obstacle, DENR and NCDOT have jointly developed guidance on secondary/cumulative impacts and are having discussions on appropriate grandfathering for NCDOT projects in the legislative and regulatory process.
- Imbalance in NCDOT's investment strategy. At this time, NCDOT has not implemented any successful strategies, but there have been substantial efforts to educate legislators on the problems caused by NCDOT's unbalanced investment strategy.
- A substantial number of roads with purpose and need statements based on economic development. Instead, purpose and need statements prepared by systems planners are based on systems plan land use and deficiency analysis. To further improve purpose and need statements, NCDOT is developing a pre-TIP process for initiating the merger process prior to programming for projects with the potential for high environmental impacts.
- New or revised environmental regulations. NCDOT has not implemented any successful strategies, but discussions are underway to identify the appropriate place in the project development process to grandfather projects from new state legislation.
- High mitigation requirements. This obstacle is being overcome by identifying the need and potential sources for mitigation during systems planning. In addition, NC agencies are developing an MOU with the DENR Wetlands Restoration Program and permitting process improvement recommendations to develop a mitigation plan merger process. The process will have concurrence points and will be coordinated with the NEPA/permitting merger process.
- Lack of staff resources. To combat this problem, NCDOT is funding 23 positions at Federal and state agencies.
- Poor communication to local and state officials. NCDOT is repeating simple and direct key messages in every possible forum. In addition, there have been senior management joint DENR/NCDOT presentations on partnership and the obstacles to improve communication.

Oregon - Vision for Joint Environmental and Transportation System Stewardship

Oregon DOT's (ODOT) approach to linking planning and NEPA is to address the NEPA process during the planning stage for large projects that have a significant modal or location aspect to be

determined. ODOT then conducts further environmental documentation and analysis when projects become funded and are developed for construction. Concurrent with addressing NEPA earlier in the transportation planning process, ODOT has undertaken a significant partnering initiative with regulating agencies. In January 2001, 10 Oregon and Federal agencies signed the *Vision for Joint Environmental and Transportation System Stewardship in Oregon Collaborative Environmental Agreement*. The goal of this group is to identify and implement collaborative opportunities that help each participating agency meet their mission of environmental stewardship, while providing for a safe and efficient transportation system.

Thus far, one project has been completed and two are currently going through the process. The first location project raised many questions regarding the adequacy of the level of detail of the data. The other two projects have not yet hit critical points where the level of detail has been tested. ODOT acknowledges that a second NEPA document will likely be required for these projects. However, ODOT expects to derive cost savings from implementing this new approach because the first NEPA study will be conducted without detailed engineering design (primarily relying on available resource data) and without detailed mitigation planning. The cost of these documents is less, and the time is shorter to produce them, than a NEPA document that tries to do them all at once. For the second NEPA document a high level of detail can be developed on a smaller number or even only one alternative, making the second document cheaper to develop.

Washington - Moving NEPA to the Corridor Planning Stage

Washington DOT's (WSDOT) approach to reinventing NEPA is to determine mode and location for the NEPA process during the Corridor Planning stage. An interdisciplinary Project Management Team then manages the corridor planning project. WSDOT is establishing a steering committee to guide the EIS/Alternatives Analysis. The Steering Committee is made up of resource agencies, local officials, and other stakeholders who share perspectives and work together to develop, analyze, and select alternatives. There will be concurrence points on purpose and need, screening criteria, alternatives, and the preferred alternative. The resulting document will have less detail than a traditional EIS. A corridor level Record of Decision (ROD) is the end of the NEPA process. Additional environmental analysis and detail are developed after the ROD and during the design phase for meeting permit requirements and commitments. The primary motivating force for the process change was to avoid the duplication that occurs by doing a planning study, involving the local community, deciding on an alternative, and then duplicating the work under NEPA once project funding has been secured. Duplication caused previously dismissed alternatives to be resurrected during the NEPA process, causing confusion and anger in the communities involved.

WSDOT's approach has so far improved stakeholder involvement and reduced duplication. For example, resource agency staff can provide their perspective, listen to other people's perspectives, and see the compromises involved in the decision-making process. Additionally, local officials, agencies, and other stakeholders who traditionally have been involved in corridor planning get to hear and consider resource agency perspectives early in decision-making.

WSDOT has faced a number of obstacles in implementing the new process, including:

- Lack of resource agencies staff to actively participate in the pilot projects. WSDOT has funded positions in the resource agencies, but policy-level staffing needed to inform the decision-making process is still scarce.
- Demands by EIS reviewers for design-level detail. The intent of the new process is to tier the decision-making process by focusing first on the mode and location decision, leaving many design details until the later design process. However, some resource agency reviewers feel that it is not possible to make the location decision based on generalized data with minimal field data collection and the potential for land use change.
- Indecision by WSDOT and FHWA on whether post-ROD environmental work will need to be completed. WSDOT's process relies upon the FHWA NEPA process being completed upon corridor ROD approval. Further environmental analysis work will still take place during the design process. FHWA believes that follow-up EISs or EAs would be required for each project. WSDOT is currently evaluating options for streamlining this process.
- Higher than expected completion times and costs on smaller-scale pilot projects. The complex I-405 Corridor Program pilot project, however, has proceeded on an accelerated schedule. The rise in cost and time on smaller-scale projects is due to getting resource agency participants up to speed, resolving disputes on purpose and need statements, and analyzing many alternatives.

Opportunities for Improvement

The following are ways identified by state DOT participants in which FHWA and states need to work together to improve the linkage of planning and NEPA.

- *Improve the Planning Process.* States must have well-developed planning process for the rest of the process to work. Systems planning will identify the deficiencies in the system and set priorities. Planning should incorporate the intent of policy, be robust enough (i.e., data-driven) to encompass consideration of broad impacts, and result in durable direction. The planning process should have "standing" in the NEPA process; decisions made during the planning process should be considered valid and used to inform NEPA decision-making when they derive from a public process that fully considers purpose and need, alternatives, and public and environmental concerns. Effective planning includes getting agencies involved earlier in the planning process, having the right information and people in the appropriate decision points, making the right decisions in planning so that we do not have to revisit them, and documenting in the planning process why it is not reasonable to carry an alternative forward.
- *Use Systems Planning More Effectively.* What is the fit between large-scale, long-term planning and project development and small-scale, short-term planning and project development? Systems planning can be the vision plan and does not have to be time or fiscally bound. Systems planning sets the context of conceptual alternatives at the project and systems levels.
- *Address When to Issue a Notice of Intent.* When do you issue the Notice of Intent (NOI) so that you scope issues and do not have to revisit ideas that are raised later in the process? If

you start with an Environmental Assessment (which results in a purpose and need statement and a set of alternatives) and then shift to an EIS and issue an NOI, how do you avoid re-opening dismissed alternatives? Transportation practitioners need to have a discussion of what is at risk if you do not issue NOI at any given point. If you foresee Federal action down the line, what are the risks of starting or not starting the process? What is the payoff or disincentive to communities for building in environmental issues in early stages?

- *Provide Guidance on Purpose and Need Statement.* What is a legitimate purpose? What level of specificity is needed for the purpose and need statement? Who should be involved?
- *Provide Guidance on Determining Impacts and Range of Alternatives.* What are the sequence of identifying impacts and the range of alternatives? What level of detail is needed for impacts? How do you address secondary impacts?
- *Address Needs of Corridor Planning Transportation.* Agencies need to set broad context decisions. It is necessary to have approval on a package of solutions to address a corridor problem so that the agency can segment the projects. In the past, transportation agencies have been criticized for segmentation. In addition, corridor planning often requires agencies to look beyond a 20-year period. It is difficult to look beyond a 20-year period when your plan must be fiscally constrained.
- *Improve Programmatic Efforts.* How do we ascertain environmental agency buy-in when they have participated in programmatic efforts, such as habitat preservation planning, in order to apply the results to project development decisions? Are there incentives transportation agencies can use to get environmental agency buy-in, such as helping with workloads or environmental stewardship benefits?
- *Provide Guidance on Resource Management.* How can environmental agencies better use reimbursed positions? Transportation agencies need to set priorities for reimbursed positions.
- *Identify Roles and Responsibilities of Participating Agencies.* It is critical to get commitments from key agencies at the senior management level. How can state DOTs motivate resource agencies? To what extent can transportation agencies set expectations for resource agencies that give real direction, identify interests, and specify objectives? All agencies need to improve relationships and build trust so that technical results generated by transportation agencies are accepted as valid and not re-tested.
- *Discuss Role and Strength of MPOs.* The role and strength of MPOs varies from state to state. However, no MPOs are viewed as being very strong in influencing land use decisions that drive transportation demand and in considering the environmental implications of their transportation plans, and their role is uncertain. Does the MPO structure support systems planning and project development? Experience will vary from state to state. The goal is to have the MPOs work in partnership with state DOTs in planning, understand their role and responsibility for delivering projects, take a regional view, and be responsive to environmental issues.
- *Need Technical Assistance from FHWA.* States would like assistance from FHWA field offices to link the planning and NEPA processes. However, barriers exist between FHWA planning and project development staff and processes. FHWA should consider professional development training programs for their staff.

Proposed Next Steps

At the conclusion of the two-day meeting, the group proposed a series of next steps to further educate each other and the U.S. DOT of ongoing efforts to improve the transportation decision-making process. First, the group would like FHWA to prepare a distribution package describing the approaches states are taking to improve the decision making process. The package should be distributed to other states via FHWA's website. FHWA should then monitor the use of the approaches. The group would like to continue discussion of the issues discussed during the Peer Exchange and reconvene through conference calls to discuss the issues. Members of the group have offered to adopt issues to address and to develop solutions to which the group should respond. In general, the group would like to broaden the transportation decision-making process discussion to other state and Federal agency staff.

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